

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ELROY W. BROWNING,

Plaintiff,

v.

JEANNE WOODFORD, et al.,

Defendants.

CASE NO. 1:05-CV-00342-AWI-LJO-P

ORDER REQUIRING PLAINTIFF TO FILE A
DECLARATION IN COMPLIANCE WITH
COURT'S ORDER OF MAY 31, 2006

(Doc. 51)

Plaintiff Elroy W. Browning ("plaintiff") is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On April 19, 2006, plaintiff filed a motion to compel defendant Lopez ("defendant") to respond to his request for the production of documents and for the payment of reasonable expenses in the amount of \$16.35. (Doc. 41.) On May 31, 2006, the court issued an order denying plaintiff's motion to compel a response to his request for the production of documents as moot, and ordering plaintiff to file a declaration setting forth the expenses he incurred in filing the motion to compel, within thirty days. (Doc. 51.) On June 14, 2006, plaintiff filed a response to the court's order. (Doc. 52.)

Plaintiff was ordered to file a declaration setting forth the expenses he incurred. Plaintiff's response is not in the form of a declaration and because it was not signed under the penalty of perjury, the court cannot construe it as a declaration. Given that plaintiff's motion to compel was accompanied by a declaration, plaintiff is aware of what a declaration is and of the general format. However, a declaration must be signed under penalty of perjury, which was lacking in plaintiff's declaration in support of his motion to compel.

1 Further, plaintiff does not separately set forth the costs incurred, instead contending that the
2 total cost incurred was \$18.68. To the extent possible, plaintiff shall separately list the costs incurred
3 in filing the motion to compel.

4 Based on the foregoing, within **thirty (30) days** from the date of service of this order,
5 plaintiff is HEREBY ORDERED to file a declaration setting forth the costs incurred in filing his
6 motion to compel, in compliance with the court's order of May 31, 2006.

7
8 IT IS SO ORDERED.

9 **Dated: June 21, 2006**
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/s/ Lawrence J. O'Neill
UNITED STATES MAGISTRATE JUDGE